



PROACTIVE RELEASE COVERSHEET

Minister	Hon Penny Simmonds	Portfolio	Environment
Name of package	Cabinet papers (including attachments) and minutes for the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025	Date to be published	16 September 2025

List of documents that have been proactively released

Date	Title	Author
26 May 2025	Cabinet paper: Amendment to the Severe Weather Recovery (Hawke's Bay Flood Protection Works) Order 2024 for Wairoa flood protection works	Ministry for the Environment
26 May 2025	Regulatory Impact Statement: Amendment to Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Order 2024 (appendix to Cabinet paper)	Ministry for the Environment
26 May 2025	CAB-25-MIN-0177 Severe Weather Recovery (Hawke's Bay Flood Protection Works) Order 2024: Proposed Amendments	Cabinet Office
14 August 2025	Cabinet paper: Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025	Ministry for the Environment
14 August 2025	Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 (appendix to Cabinet paper)	Parliamentary Counsel Office
14 August 2025	LEG-25-MIN-0160 Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025	Cabinet Office
18 August 2025	CAB-25-MIN-0282 Report of the Cabinet Legislation Committee: Period Ended 15 August 2025	Cabinet Office

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld from *Cabinet paper: Amendment to the Severe Weather Recovery (Hawke's Bay Flood Protection Works) Order 2024 for Wairoa flood protection works* under Sections 9(2)(ba)(i) and 9(2)(h) of the Official Information Act (obligation of confidence and legal professional privilege). Some information has been withheld from *CAB-25-MIN-0282 Report of the Cabinet Legislation Committee: Period Ended 15 August 2025* as this is out of scope.

In-Confidence

Office of the Minister for the Environment

Cabinet Business Committee

Amendment to the Severe Weather Recovery (Hawke's Bay Flood Protection Works) Order 2024 for Wairoa flood protection works

Proposal

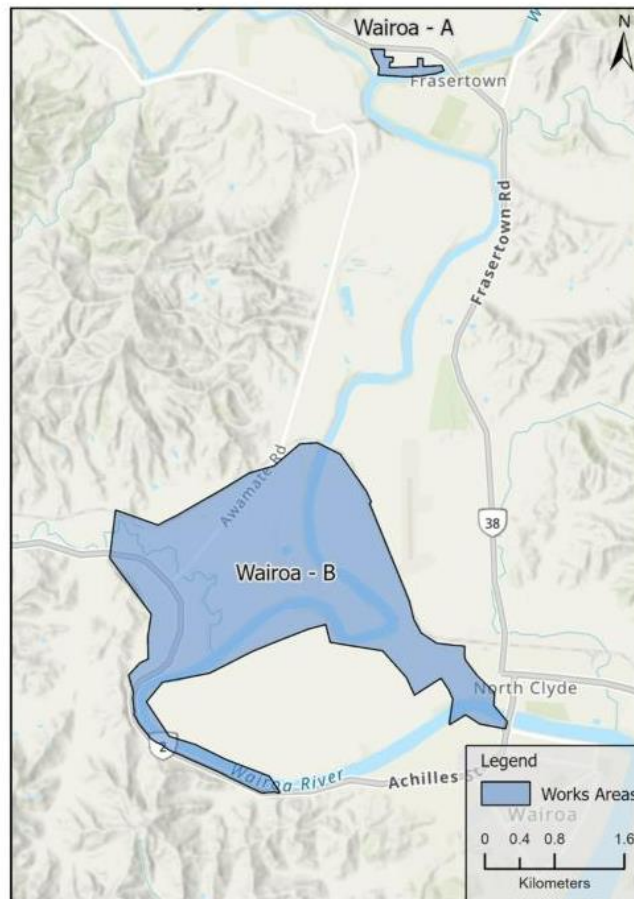
1. Flooding from Cyclone Gabrielle caused extensive damage to homes and businesses in Wairoa. The Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 (the 2024 Order) was enacted to speed up flood protection works in eight locations in the Hawke's Bay, including for Wairoa.
2. This paper seeks Cabinet's agreement to progress an Order in Council (Order) to amend the description of the location for Wairoa flood protection works in Schedule 1 of the 2024 Order. No other changes to the 2024 Order are sought.

Executive Summary

3. Cyclone Gabrielle flooded 816 properties in Wairoa. The 2024 Order provides a streamlined resource consent process for priority flood protection projects, including in Wairoa. Flood protection is critical to enable the Wairoa community to recover from Cyclone Gabrielle and improve resilience to future events. The Crown has committed \$70 million for flood protection for Wairoa.
4. The Hawke's Bay Regional Council (the Regional Council) confirmed its preferred flood protection solution in 2025 following community engagement, as required by the Government to access Crown funding. The 2024 Order was enacted following preliminary design work and changes are now needed to include the Regional Council's preferred solution. While there are different views in the community about the best proposal for flood protection, amending the Order does not commit the community to a solution.
5. Flood protection will mean 380 homes can be reclassified from Category 2C (community level risk mitigation needed) to Category 1 (essentially low risk) under the Future of Severely Affected Land Categorisation Framework. Without flood protection, affected homes might be reclassified as Category 3 (unacceptable risk to human life, not suitable for residential use). Flood protection will also protect infrastructure, businesses, schools, community organisations and whenua Māori.
6. I propose an amendment Order to amend the map and description of the location for Wairoa flood protection works in Schedule 1 of the 2024 Order. Without this amendment Wairoa will face a slower, more complicated and less certain consenting process, or will be restricted to the original flood protection proposals. This would delay Wairoa's recovery and potentially compromise the project.
7. An amendment would enable Wairoa to benefit from the regulatory relief Cabinet intended and is needed by the end of August 2025 to take advantage of the 2025/26 summer construction season. If Cabinet agrees, I will report back in August 2025 to seek agreement to submit an amendment Order for enactment.

Background

- 8. The Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) enables legislation, including the Resource Management Act 1991 (RMA), to be temporarily amended through Orders for recovery activities in affected locations. All Orders made under SWERLA are revoked on 31 March 2028 when that Act expires, unless revoked sooner.
- 9. The 2024 Order applies to eight flood protection projects in the Hawke’s Bay and provides a streamlined process to reduce uncertainty and risk of delays for obtaining resource consents under the RMA. The process classifies flood protection works as controlled activities, enabling consents to be granted on a non-notified basis, and requires notice of a decision on the consent application to be issued within 30 days. Appeal rights are limited, with no right of appeal to the Environment Court.
- 10. Two locations are identified in the 2024 Order to enable flood protection works in Wairoa: Wairoa – A (the small area at the top of the map), and Wairoa – B (the larger area at the bottom).



Analysis

Reason for change in location of Wairoa flood protection works

- 11. The proposed amendment relates to the map and description (which includes geographical coordinates) of the location of the works. The 2024 Order was enacted following preliminary design work to identify a range of options for flood protection. The

Table 1. Assessment against the Section 8 statutory requirements

Section 8(1) matters	Assessment
Necessary or desirable	The proposed amendment is necessary or desirable to enable the rebuilding of land, infrastructure, and other property of affected communities or of any affected persons; and for facilitating the restoration and improvement of the economic, social and cultural well-being, and enhancing the resilience, of affected communities or of any affected persons.
No broader than is reasonably necessary	An amendment would add a relatively small amount of land to incorporate the preferred solution – which has the greatest level of community support and is intended to minimise the impact of the flood protection works. The Ministry for the Environment considered amending the 2024 Order to describe only the preferred solution. Retaining land subject to the 2024 Order is still necessary, however, as ongoing engagement and project complexity may require future changes before or during the consenting process.
Does not breach Section 11 SWERLA	Section 11 would not be breached by an amendment to the description of the location of flood protection works in the 2024 Order.
Does not limit/justified limitation on the New Zealand Bill of Rights Act 1991 (NZBORA)	Section 27 of the NZBORA is engaged by this proposal but the limitation is justified. Any consenting process that does not enable works to take advantage of the 2025/26 summer construction season will delay the recovery of the Wairoa community. Delay, uncertainty and potential cost increases could compromise the project's viability and leave the community with unacceptable flood risk.

16. Under Section 8, I must also consider the environmental effects. The 2024 Order includes consent conditions to avoid, remedy or mitigate adverse environmental effects. Consent holders are required to follow these conditions to ensure that any adverse environmental effects will be appropriately managed.
17. Ultimately, amending the 2024 Order will assist the Wairoa community and local councils to provide for the planning, rebuilding, and recovery of the affected community and persons. It will mean that the existing streamlined consenting process in the 2024 Order will apply to an additional area of land. This will support the project to commence in the summer 2025/26 construction season, in line with the timeframes in the Hawke's Bay Regional Recovery Plan.
18. The Minister for the Environment has a statutory obligation to keep relevant Orders under review. One objective of doing so is to identify if an Order requires an amendment to ensure it is working as intended. If the 2024 Order cannot be used for the Regional Council's preferred solution it is not working as intended.

Alternative options to an amendment

19. My preferred approach is to progress an amendment as outlined above. If an amendment is not progressed, the Regional Council will need to rely on existing consenting processes. Alternative consenting pathways exist under the RMA and the Fast-track Approvals Act 2024. However, neither of these provide the speed and certainty of consenting that is already provided by the existing bespoke consenting pathway in the 2024 Order that was developed to progress these flood protection works.

20. Without an amendment, Wairoa will be restricted to the original flood protection proposals to benefit from the regulatory relief Cabinet intended or will face a slower, more complicated and less certain consenting process.

Land access arrangements

21. For the project to go ahead within the desired timeframes the Regional Council will still need permission from landowners to access and acquire land. Direct engagement with potentially impacted landowners is a priority for the Council. The 2024 Order makes no changes to Te Ture Whenua Māori Act 1993 or Public Works Act 1981, and any land use arrangements under these Acts continue to apply. If the Regional Council is unable to obtain permission from landowners, it would need to use the processes for land access under the Public Works Act 1981.

Treaty of Waitangi considerations

22. The footprint of the flood protection works within the 2024 Order is an area subject to the Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018. This Act includes a Statutory Acknowledgement over the Wairoa River and its tributaries and a Right of First Refusal over properties in the area. The Deed of Settlement with the Iwi and Hapū of Te Rohe o Te Wairoa also provides for a Tripartite Relationship Agreement between the Tātāu Tātāu o Te Wairoa Trust (TToTW – the Post-Settlement Governance Entity), the Wairoa District Council and the Hawke’s Bay Regional Council. This relationship agreement is an avenue for engagement on flood mitigation options.

9(2)(ba)(i)

[Redacted text block]

24. In person engagement will be undertaken to better understand the views of tangata whenua. Engagement will help to both assess and minimise litigation risk and officials will undertake targeted engagement with iwi, hapū and mana whenua, including TToTW, as part of the statutory engagement on the proposed amendment Order.

25. To provide a more streamlined process the 2024 Order reduced the ability for affected parties to provide input into consenting applications. It also removed the ability to take objections to the consent authority or appeal decisions in the Environment Court. These changes are mitigated by the retention of judicial review and additional safeguards in the 2024 Order. These safeguards are:

- 25.1. requiring the consent authority to notify and invite all relevant Māori entities to provide written comment within ten days
- 25.2. consent conditions which specify how projects will avoid, remedy or mitigate adverse environmental effects and set out engagement processes with Māori.

9(2)(h)

Regulations Review Committee

- 27. The Regulations Review Committee (RRC) does not consider SWERLA confers the power to truncate appeals in the RMA and has therefore previously recommended that SWERLA should be amended if further Orders truncate appeal rights. The Government's position is that limiting appeal rights is within the scope of Section 7 of SWERLA (which enables the making of Orders) and is therefore authorised by it.
- 28. Given the view expressed by the RRC, there is a potential risk that an RRC member could put forward a motion in the House of Representatives to disallow the proposed amendment Order, which, if passed by the House, would have the effect of revoking the 2024 Order (or part of it). The House can, however, vote not to pass such a motion.

Cost-of-living Implications

- 29. The proposal in this paper will help provide flood protection to reduce the significant social and economic costs and risks of flooding in Wairoa.

Financial Implications

- 30. The proposal does not have direct financial implications. It will support the use of \$70 million the Crown has committed to fund the flood protection solution for Wairoa.

Legislative Implications

- 31. Section 7 of SWERLA enables Orders to be made for the purposes set out in Section 8 of that Act. Section 7 also enables exemptions from, modifications of, or extensions to provisions in legislation listed in Schedule 2 of the Act, which includes the RMA. This proposal is to amend the 2024 Order which modifies the RMA. The statutory process for an amendment Order is the same as for a new Order.
- 32. Orders can only be made where the Minister responsible is satisfied the criteria in section 8(1)(a) are met. As outlined above, I am satisfied the proposal meets these requirements sufficiently to be progressed to the next stage of development.

9(2)(h)

Impact Analysis

Regulatory Impact Statement

34. The following statement was provided by the Panel which assessed the Regulatory Impact Statement:

A quality assurance panel (the Panel) from the Ministry for the Environment has reviewed the Regulatory Impact Statement (RIS): Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Amendment Order.

The Panel considers the RIS 'partially meets' the criteria. The rationale for the amendment is clear and the options well-articulated. Through the development of the original Order in Council and flood protection plan there has been extensive consultation of affected parties; however, we note that the Ministry has not yet undertaken consultation on the proposed amendment to the 2024 OIC, and is relying upon the previous consultations.

It was not always clear throughout the document which benefits are marginal to the choice of consenting pathway, or dependent on other outcomes to be achieved. Impacts of future engagement, judicial review, and a tighter timeframe for consent decisions also could have been more fully explored. The Panel does not believe these issues would change the overall assessment that benefits outweigh costs."

Climate Implications of Policy Assessment

35. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

36. This project will enable 380 homes in Wairoa to be reclassified from category 2C to Category 1. This is almost 40 percent of the homes that would benefit from the eight flood protection projects covered by the 2024 Order.
37. The Wairoa flood mitigation project is fundamental to supporting the community's economic and social recovery. The preferred flood protection solution will be designed to help protect Wairoa – both residents and businesses - from a 1-in-100-year flooding event.

Human Rights

38. The proposed amendment Order seeks to amend the map and description for Wairoa flood protection works in the 2024 Order. This proposal will engage Section 27 of NZBORA because the 2024 Order limits input into the consent process and removes rights to object to or appeal consent decisions. Rights to seek judicial review are unaffected. The limitation on input and removal of appeal rights will apply to a new area of land. My preliminary view is this limitation is justified.

Use of external Resources

39. A contractor has been engaged on a short-term basis to support this work.

Consultation

40. Amending the 2024 Order is supported by the Hawke's Bay Regional Recovery Agency (the Recovery Agency), the Regional Council, the Wairoa District Council and the Crown Manager appointed to the Wairoa flood mitigation project.
41. A particular focus of public engagement by the Regional Council on options for flood protection has been working with owners of whenua Māori, whānau and other landowners, to minimise the impact of works. The Regional Council's preferred solution is a direct result of this engagement which is ongoing. SWERLA requires engagement on proposed Orders. The Ministry plans to undertake four days of engagement (the statutory minimum is three days) from 27 to 30 May 2025. Targeted in person engagement is intended to take place in Wairoa with Tātāu Tātāu o Te Wairoa Trust, marae representatives, affected landowners and others who may be directly impacted. The public will be able to provide written submissions.
42. Officials from the Ministry for the Environment have worked with the Recovery Agency, Regional Council and the Cyclone Recovery Unit in developing the proposal in this paper. Crown Law advice has been sought.
43. The Ministry consulted the Ministry for Culture and Heritage; Te Puni Kōkiri; Te Arawhiti; the Department of Conservation; Land Information New Zealand; the Ministry of Housing and Urban Development; the Ministry for Primary Industries; and the Department of Internal Affairs on this Cabinet paper. The Policy Advisory Group within the Department of Prime Minister and Cabinet was informed of the proposal.

Communications

44. Subject to Cabinet approval of the proposal in this paper, officials will undertake statutory engagement on the proposal from 27 to 30 May 2025.

Proactive Release

45. I intend to proactively release this Cabinet paper within 30 days of final Cabinet decisions on an amendment Order, subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister for the Environment recommends that the Committee:

1. **note** that the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) enables legislation to be amended via Order in Council (Order) to speed up recovery from Cyclone Gabrielle
2. **note** the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 (the 2024 Order) made a short-term law change to the Resource Management Act 1991 to speed up flood protection works in Hawke's Bay, including in Wairoa
3. **note** that changes to the map and description of the location for the Wairoa flood protection works within Schedule 1 of the 2024 Order are needed following consultation and refinement of options by the Hawke's Bay Regional Council, but no other changes are proposed
4. **agree** to amend the map and description of the location for Wairoa flood protection works in Schedule 1 of the 2024 Order
5. **authorise** the Minister for the Environment to carry out public engagement on the proposed amendment Order
6. **note** officials will undertake engagement between 27 and 30 May 2025 on the proposed changes to the map and description of the location for Wairoa flood protection works within the 2024 Order
7. **authorise** the Minister for the Environment to:
 - 7.1. issue drafting instructions to the Parliamentary Council Office for the proposed amendment Order
 - 7.2. make minor and technical changes as required
8. **agree** that the proposed amendment Order would apply from the day after Royal Assent and through to 31 March 2028 when SWERLA expires
9. **invite** the Minister for the Environment to report back to Cabinet in August 2025 to seek agreement to submit the amendment Order to the Executive Council and Governor-General for enactment.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment



Regulatory Impact Statement: Amendment to Severe Weather Emergency Recovery Legislation (Hawke's Bay Flood Protection Works) Order 2024

Decision sought	<i>Cabinet agreement to develop an Order in Council under the Severe Weather Emergency Recovery Legislation Act 2023 to amend the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024</i>
Agency responsible	<i>Ministry for the Environment</i>
Proposing Ministers	<i>Minister for the Environment</i>
Date finalised	<i>21 May 2025</i>

The proposal is to amend the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 (the 2024 Order). The 2024 Order was enacted under the Severe Weather Recovery Emergency Legislation Act 2023 (SWERLA). The 2024 Order provides a streamlined consenting process for flood protection works in eight locations in the Hawke's Bay, including Wairoa, to support recovery from Cyclone Gabrielle. These locations are identified in Schedule 1 of the 2024 Order by maps and descriptions.

Following further design work and community consultation, the Hawke's Bay Regional Council (the Regional Council) has proposed a preferred flood protection solution. The Council's preferred solution for Wairoa falls partially outside of the 2024 Order. This means the streamlined consenting process in the 2024 Order cannot be used unless the description in Schedule 1 is amended to cover the full area of the preferred solution.

Without this amendment, Wairoa will not be able to get the benefit of the regulatory relief Cabinet agreed to provide through the 2024 Order to progress the Council's preferred solution. This means Wairoa will face a slower, more complicated and less certain consenting process, or be restricted to the original flood protection proposals. This would delay Wairoa's recovery and potentially compromise the project.

Summary: Problem definition and options

What is the policy problem?

The 2024 Order provides a streamlined consenting process for flood protection works in Wairoa following Cyclone Gabrielle. The works are scheduled to commence in the summer 2025 construction season, provided resource consents are issued in time.

After community consultation, a preferred solution has been identified by the Regional Council which reduces adverse impacts on whenua Māori and homeowners. This solution

has the greatest level of community support, though no one solution has unanimous support. However, the preferred solution includes land that is not within the area described in Schedule 1 of the 2024 Order.

The 2024 Order cannot be used to progress the Regional Council's preferred solution without amendment. While alternative consenting processes exist, they are unlikely to deliver this project in a timely manner and are likely to increase costs.

The critical consequence of delay will be that the Wairoa community remains at significant risk from flooding events. Following Cyclone Gabrielle, a total of 626 properties (residential, commercial, industrial and rural) were classified as needing community level flood protection to manage future flood risk, including 380 properties with dwellings. Delays will impact the ability of these landowners to recover from Cyclone Gabrielle.

In addition, cost increases associated with delays and alternative consenting processes could impact on the viability of the project by increasing costs past the level of funding agreed by central government.

What is the policy objective?

The objective is to uphold the Government's decision in 2024 to provide regulatory relief to enable resource consents for flood protection works to be obtained in a timely manner. Success will be measured by the Regional Council being able to apply for a consent for their preferred solution under the streamlined consenting process in the 2024 Order.

What policy options have been considered, including any alternatives to regulation?

The Ministry's preferred option is to amend the 2024 Order. Amending the 2024 Order supports the Government's original intent for Wairoa's flood protection to progress under the streamlined consenting process in the 2024 Order. The 2024 Order enables flood protection works to be classified as controlled activities, enabling consents to be granted on a non-notified basis, and requires notice of a decision on the consent application to be issued within 30 days. Appeals to the Environment Court are avoided, reducing uncertainty and the risk of delays.

The alternative option is to make no change to the 2024 Order (the status quo). This option would mean Wairoa will need to either rely on alternative consenting processes to progress the Regional Council's preferred solution, be restricted to other solutions falling within the area defined within the 2024 Order or not progress the project. These would be decisions for Wairoa and are therefore outside the scope of this Regulatory Impact Statement.

Alternative consenting processes exist under the Resource Management Act 1991 (RMA) and the Fast-track Approvals Act 2024. However, neither of these options provide the speed and certainty of consenting compared to the pathway already provided through the 2024 Order.

It should be noted that there is a key project dependency outside the scope of this Regulatory Statement. The focus of this analysis is on the consenting process, which is an important step in the overall process. To proceed within the desired timeframe, the Regional Council still needs permission from landowners to access and acquire land. Gaining permission will be more difficult for any option that has less support and requires the Regional Council to access or acquire more land.

What consultation has been undertaken?

First, the Regional Council has consulted with the community on solutions for flood protection works. Initially, the consultation involved the Wairoa Flood Mitigations Scheme Stakeholder Group, mana whenua, river engineers and other technical experts. Engagement then expanded to include potentially impacted whānau, homeowners, landowners and the

broader Wairoa community. Direct engagement with potentially impacted homeowners and landowners regarding the two most viable options began in mid-October 2024. Engagement is still ongoing, and one-to-one engagement has continued regularly at the request of individual owners.

Second, the Ministry for the Environment previously undertook a three-week public consultation on the 2024 Order. This covered all matters in the 2024 Order, including the projects covered and the streamlined consenting process.

The Ministry has not yet consulted on the proposed amendment to the 2024 Order. This consultation will take place following initial decisions by Cabinet on progressing the amendment Order. Four days of engagement will be undertaken (the statutory minimum under SWERLA is three days), with targeted in-person engagement and an opportunity for the public to provide written submissions.

The proposed amendment is a direct consequence of the engagement undertaken by the Regional Council that has resulted in a preferred solution that falls partially outside the area in the 2024 Order. While it will enable the Regional Council to use the streamlined consenting process for the preferred solution, it will not limit or commit the community to a single solution.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes

Summary: Minister’s preferred option in the Cabinet paper

Costs

The proposed amendment will bring the land of additional people under the 2024 Order. The streamlined process under the 2024 Order reduces the ability to provide input and removes the ability to appeal decisions in the Environment Court. A streamlined process also risks resulting in a less robust decision. These costs were accepted for the people within the area defined for flood protection works when the 2024 Order was enacted.

There will be minor costs to the Ministry and government agencies for the legislative amendment and statutory engagement.

Benefits

The Regional Council has put forward a preferred solution that reduces the number of homes to be removed from 16 to eight and impacts seven whenua Māori properties rather than 20. Two urupā are within the new alignment, but no marae. The project would protect the utilised component of these urupā (i.e. the kō iwi / burial sites) through stop banking.

Amending the 2024 Order will enable the Regional Council to continue work under a streamlined consenting pathway, reducing consent costs and supporting construction to commence much sooner than under other consenting pathways. Using the streamlined consenting process will have some fixed benefits (reduced process time and costs) and wider benefits from the flood protection including:

- enabling 380 homes in Wairoa to be safe for residential use, so these people can rebuild and recover
- providing flood protection to 246 more properties, which include homes, businesses, schools and recreational facilities, as well as essential services and roads

- employment and money spent locally during construction.

Balance of benefits and costs

The benefits of the proposed amendment likely outweigh the costs. The amendment will uphold the Government’s intent that the 2024 Order deliver earlier certainty to households in Wairoa and allow other recovery activities to follow, supporting the Wairoa District’s social and economic recovery. Enabling the Regional Council to progress the preferred solution under the 2024 Order increases the likelihood of delivering flood protection for Wairoa sooner.

Implementation

The proposed amendment Order will be enacted by the Governor-General, upon recommendation by the Minister for the Environment, pursuant to SWERLA. Implementation of the amendment Order will be undertaken by local government through the lodgement of the relevant consents for the Wairoa flood protection works under the consenting pathway in the 2024 Order.

The Minister for the Environment has a statutory obligation to keep Orders under review which will provide an ongoing opportunity to identify and address any risks.

Limitations and Constraints on Analysis

This analysis relies on design work and engagement undertaken by the Regional Council to prepare the preferred option for flood protection works in Wairoa and is not intended to duplicate any element of that process.

I have read the Regulatory Impact Statement, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager’s signature:



Katherine Wilson
General Manager – Adaptation
 Date: 20 May 2025

Quality Assurance Statement

Reviewing Agency:

QA rating: Partially meets

Panel Comment:

A quality assurance panel (the Panel) from the Ministry for the Environment has reviewed the Regulatory Impact Statement (RIS): Severe Weather Emergency Recovery Legislation (Hawke’s Bay Flood Protection Works) Amendment Order.

The Panel considers the RIS ‘partially meets’ the criteria. The rationale for the amendment is clear and the options well-articulated. Through the development of the original Order in Council and flood protection plan there has been extensive consultation of affected parties; however, we note that the Ministry has not yet undertaken consultation on the proposed amendment to the 2024 Order, and is relying upon the previous consultations.

It was not always clear throughout the document which benefits are marginal to the choice of consenting pathway, or dependent on other outcomes to be achieved. Impacts of future engagement, judicial review, and a tighter timeframe for consent decisions also could have been more fully explored. The Panel does not believe these issues would change the overall assessment that benefits outweigh costs.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Cyclone Gabrielle and flooding in Wairoa

1. In February 2023, flooding from Cyclone Gabrielle caused significant damage in Wairoa. The Wairoa River burst its banks and flooded homes and businesses, particularly in the North Clyde area. Property damage was extensive due to the depth of flows and significant volumes of silt. The effects are still being felt today, with people either displaced and/or living in temporary accommodation. Repairs to flood-damaged properties are continuing and people need certainty about flood protection.
2. The sudden onset of the flooding through North Clyde was due to the area acting as a secondary flow path for the river (the water flows over this area if the river breaches its banks). A total of 816 properties in Wairoa covering 378 hectares were partially or completely flooded during Cyclone Gabrielle.
3. Affected properties included many residential and lifestyle properties, as well as properties used for bowling; a motel; marae and whenua Māori areas; schools and pre-schools; A&P Society Show Grounds; utility services; boating activities; meat processing at the AFFCO Plant; roads and road services; clubs; community services; petrol sales; other retail facilities and a wide range of other commercial enterprises.
4. Under the Future of Severely Affected Locations framework, 380 residential dwellings in Wairoa were identified as requiring community-level flood protection to be safe for residential use (Category 2C).¹
5. On 26 June 2024, Wairoa declared a State of Local Emergency following another significant rainfall event. While this event is not related to Cyclone Gabrielle or the proposal in this paper, it has added to the challenges facing the Wairoa community.

¹ The Future of Severely Affected Locations Framework provides a structured approach for categorising flood-affected property. It includes measures such as community-level interventions to be safe for residential use (Category 2C), voluntary buyouts for high-risk properties (Category 3), and a tailored approach for whenua Māori.

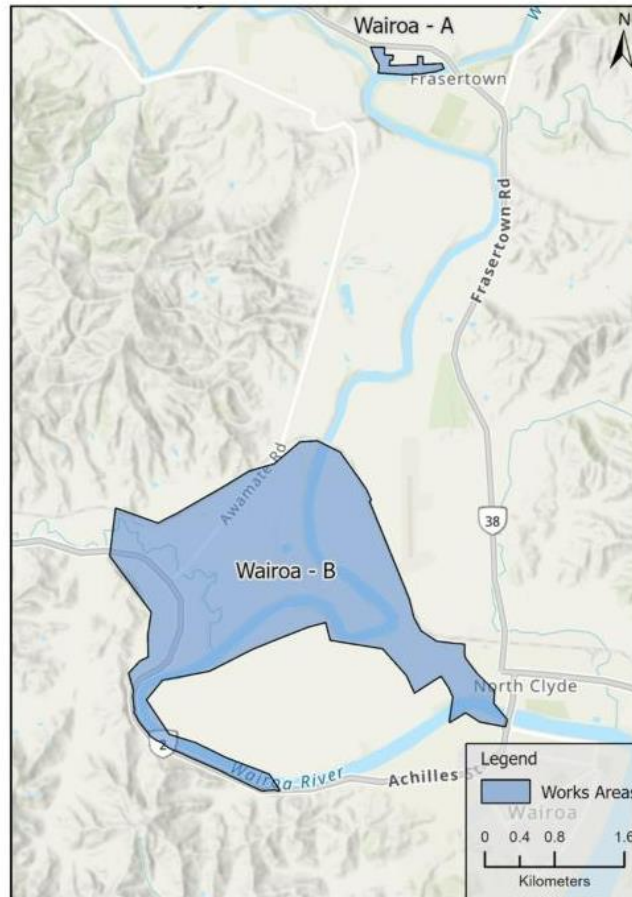
Wairoa flood mitigation project

6. The Hawke’s Bay Regional Recovery Plan (the Recovery Plan) sets out the region’s goals and priorities for recovering from Cyclone Gabrielle.² The Recovery Plan identifies flood protections as a precondition for many recovery activities to ensure recovery actions and works are protected from future flooding. The Wairoa flood mitigation project is one of these projects.
7. A significant driving component of the Recovery Plan has been to inform budget requests to central Government. The Government has agreed to fully fund the flood protection solution for Wairoa up to a value of \$70 million.

Regulatory relief provided by 2024 Order

8. SWERLA enables the Government to implement temporary changes to laws through Orders to assist communities to which that Act applies to recover from severe weather events. SWERLA will expire on 31 March 2028, and no new Orders can be enacted after 31 March 2026.
9. In 2024, the Government agreed to provide regulatory relief to the Hawke’s Bay region to speed up recovery. The 2024 Order was enacted under SWERLA for this purpose. The 2024 Order provides for a temporary law change which streamlines the consenting process under the RMA for the eight projects covered by the Order (including Wairoa) and removes appeal rights.
10. The 2024 Order is intended to enable consents for flood works to be obtained in a timely manner. Flood protection will support people and communities in Hawke’s Bay to recover from the effects of Cyclone Gabrielle and protect them against future events. The locations identified in the 2024 Order for flood protection works in Wairoa are shown in the map below (Wairoa-A, the small area at the top, and Wairoa-B, the larger area at the bottom).

² Hawke’s Bay Regional Recovery Plan 2.0 (July 2024).
<https://www.hawkesbayrecovery.nz/assets/Uploads/Te-Matau-a-Maui-Hawkes-Bay-Regional-Recovery-Plan-2.0-July-2024-FINAL.pdf>.



Timeframes for alternative consenting processes

11. There are existing consenting processes in primary legislation. However, obtaining resource consents under the RMA for flood protection works can be a complex process involving notification of consent applications and lengthy timeframes for public submissions and hearings. Environment Court appeal proceedings can span several years before consents are issued.
12. A report by Sapere in 2021 found that consent applications are now taking much longer to be processed and the time taken to make decisions on consent applications for infrastructure projects increased by as much as 150% when comparing the periods 2010-2014 to 2015-2019. Te Waihangā has also assessed the timeframe for complex infrastructure projects as being between 365 and 425 days.³
13. Table 1 sets out some generalised estimates of consenting timeframes for complex infrastructure proposals under the RMA (note these are not the same as the statutory timeframes in the RMA). In comparison, an amendment to the Order could enable consents to be obtained in time for works to commence in the 2025 summer construction season (with no risk of appeals).

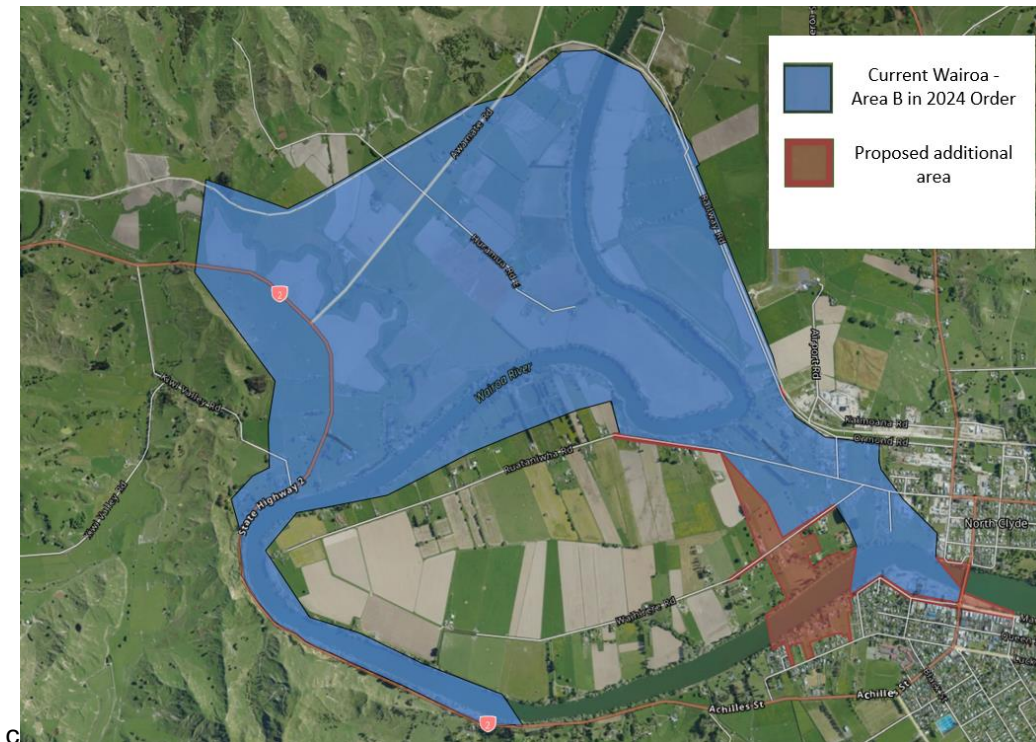
³ Te Waihangā Strategy. <https://tewaihanga.govt.nz/the-strategy/7-a-world-class-infrastructure-system-how-we-get-there/7-3-an-enabling-planning-and-consenting-framework>.

Table 1: Generalised estimates of timeframes consenting complex infrastructure projects under the RMA	
Process	Estimated timeframe
RMA standard resource consenting pathway	18 months - with potential for further delay through appeals
RMA resource consents granted via direct referral to the Environment Court	12 months - reduced risk of appeals on consent decision
RMA plan change processes to amend regional and district plans	24 months - with potential for further delay through appeals Further consents required once plan change is processed

14. The Fast-track Approvals Act 2024 also offers an alternative consenting process. The Act itself does not provide a definite timeframe for consenting projects, and as the Act became operational in 2025, no time estimates are available yet.

What is the policy problem or opportunity?

15. The 2024 Order was enacted following preliminary design work to identify a range of options for flood protection in Wairoa. Since then, community consultation has been undertaken along with refinement of the design to minimise the impacts. Consequently, the proposed location of the Wairoa flood protection works has changed. The Regional Council's preferred solution:
- a. has the greatest level of community support (noting no solution has unanimous support)
 - b. reduces impacts on whenua Māori and homeowners
 - c. allows floodwater to follow a direct overland path.
16. One of the safeguards for developing an Order under SWERLA is that the Order is not broader (geographically or in application) than reasonably necessary. It is for this reason that geographical boundaries for the Wairoa flood protection works were included in the 2024 Order. However, the preferred solution falls outside of the 2024 Order area as set out in the following map.



17. The works are scheduled to start this summer under the Regional Recovery Plan, but consents must be obtained before this work can begin. The 2024 Order cannot be used to obtain resource consent for the Regional Council’s preferred solution without amendment. If the 2024 Order is not amended Wairoa would need to either rely on alternative consenting processes to progress this solution, be restricted to other solutions falling within the area defined within the 2024 Order or not progress the project. As outlined in Table 1 above, alternative consenting processes would take longer, thereby delaying construction and the delivery of flood protection and, consequentially, Wairoa’s recovery.
18. Flood protection will mean 380 homes can be reclassified from Category 2C (community level risk mitigation needed) to Category 1 (essentially low risk) under the Future of Severely Affected Land Categorisation Framework. Without flood protection, affected homes may be reclassified as Category 3 (intolerable risk to human life, not suitable for residential use). The proposed flood protection will also protect infrastructure, businesses, schools, community organisations and whenua Māori.

What objectives are sought in relation to the policy problem?

19. The objective is to uphold the Government’s decision in 2024 to provide regulatory relief to enable resource consents for flood protection works to be obtained in a timely manner.
20. The proposed amendment will enable the Regional Council to obtain resource consents for the Council’s preferred solution under the 2024 Order. Progressing the preferred solution will mean:
 - a. the Wairoa community can recover earlier from the effects of Cyclone Gabrielle and is protected up to a 1 in 100-year event

- b. the significant social and economic costs due to the disruption caused by the flooding are addressed, and the cost of response and recovery from future flooding reduced
 - c. certainty is provided to people with houses on land that is not suitable for residential use without flood protection.
21. Success will be measured by the Regional Council being able to apply for a consent for the Council's preferred solution under the streamlined consenting process in the 2024 Order.

What consultation has been undertaken?

22. The proposed amendment to the 2024 Order is intended to respond to community consultation by supporting implementation of the Regional Council's preferred solution for the Wairoa flood protection works.

Community consultation undertaken by Council to identify a preferred solution

23. The Regional Council has undertaken public consultation to identify this preferred solution. A particular focus has been working with owners of whenua Māori, whānau and other landowners, to minimise the impact of works.
- a. Earlier in the project, engagement largely involved the Wairoa Flood Mitigations Scheme Stakeholder Group, mana whenua, river engineers and other technical experts, as the project developed technically viable options to take to the community.
 - b. Engagement then extended out to include potentially impacted whānau, home and landowners as well as the broader Wairoa community.
 - c. Direct engagement with landowners potentially impacted by the two most technically viable options commenced from mid-October 2024. The Regional Council has advised that in many cases one-to-one engagement has continued at the request of individual owners.
 - d. Both the Māori Land Court and Te Tumu Paeroa have been engaged on the project and their advice and input sought with respect to engaging with potentially impacted landowners, including owners of whenua Māori.
24. A dedicated project website (<https://www.wairoafloodproject.co.nz>) has been developed with information, reports and updated news being loaded regularly. Appendix Two provides more information about the engagement led by the Regional Council on the Wairoa flood mitigation project.
25. The preferred solution is a direct result of this engagement and is supported by the Hawke's Bay Regional Recovery Agency, the Regional Council, the Wairoa District Council and the Crown Manager appointed to the Wairoa flood protection works project. While there are different views in the community about the best proposal for flood protection, amending the Order does not commit the community to a solution.
26. See Appendix One for more details about engagement undertaken by the Regional Council.

Consultation on the 2024 Order

27. Consultation was undertaken by MfE on the original Order, which received support from a range of key groups. Further information on this consultation is set out in Appendix Two of the Supplementary Analysis Report for that Order, which is available on the Ministry for the Environment's website.⁴

Consultation on the proposed amendment to the 2024 Order

28. SWERLA requires public engagement on Order proposals. Subject to Cabinet decisions on the proposal, four days of engagement will be undertaken (the statutory minimum under SWERLA is three days) on the proposed amendment. Targeted in-person engagement will be undertaken and there will be an opportunity for the public to provide written submissions.

29. The proposed amendment is a direct consequence of the engagement undertaken by the Regional Council that has resulted in a preferred solution that falls partially outside the area in the 2024 Order. While it will enable the Regional Council to use the streamlined consenting process for the preferred solution, it will not commit the community to a single solution.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

30. The criteria for evaluating options are:

- effective – the option provides certainty and enables timely consenting to support recovery
- efficient – the option minimises costs and impacts
- fair – the option is equitable.

31. Effectiveness has been prioritised as it is of the greatest importance to enable resource consent to be obtained in a timely manner.

32. Te Tiriti implications were also considered alongside these criteria.

What scope will options be considered within?

33. The scope of options is limited to actions central government could take to ensure a streamlined consenting process is in place. This means the decision for central government is limited to whether to amend the 2024 Order. If the 2024 Order is not amended the status quo will apply.

34. The status quo means that Wairoa:

⁴ <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/hawkes-bay-flood-protection-works>.

- would need to rely on an existing consenting pathway in the RMA or under the Fast-track Approvals Act 2024 to progress the Regional Council's preferred solution, or
- would be restricted to other solutions (the original flood protection proposals) falling within the area defined in the 2024 Order, or
- might not progress the project if delays and consenting costs for alternative pathways increased the cost of the project past the level up to which central government has undertaken to fund the project.

35. Which of these options might be pursued would be a decision for Wairoa and is outside the scope of this analysis. The Government need only decide whether to agree to amend the 2024 Order or not.

What options are being considered?

36. The options are to amend the 2024 Order or not.

Option One – Do not amend the 2024 Order (status quo)

37. This option is the status quo and involves retaining the existing description for Wairoa flood protection works in Schedule 1 of the 2024 Order. Under this option, central government takes no further action. To progress the flood works, Wairoa would be restricted to the original flood protection proposals to benefit from the regulatory relief the Government intended or would need to rely on consenting processes under the RMA or Fast-track Approvals Act 2024 to progress the Regional Council's preferred solution. As noted above, whether to pursue another solution or alternative consenting options for the preferred solution would be a decision for local government.

Option Two – Amend the 2024 Order (preferred)

38. The preferred option is to amend the description for the Wairoa flood protection works in the 2024 Order to include the additional area needed for the Regional Council's preferred solution (noting the current footprint only contains part of this area). No other changes to the 2024 Order are sought. This option requires an amendment to the 2024 Order.

39. The Ministry considered implementing this amendment by reducing the land covered by the 2024 Order so that it only covers the preferred solution. Retaining land subject to the original Order is still necessary as engagement is ongoing and there remains a possibility that changes could still be needed as part of both the engagement and consenting processes. Engagement requires a willingness to hear from affected parties, which could lead to a shift or change in a proposal.

How do the options compare to the status quo/counterfactual?

40. Table 2 sets out options assessment comparing the preferred option to the status quo.

Key:

++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

Table 2 – options assessment

	Option One – do not amend 2024 Order (status quo)	Option Two – amend 2024 Order (preferred)
Effective – the option provides certainty and enables timely consenting to support recovery	<p>0</p> <p>The Regional Recovery Agency and Regional Council have indicated that not amending the 2024 Order could affect the viability of the project due to its sensitivity to time delays and increasing costs. The community would remain unprotected from a 1-in-100-year flood and affected landowners would remain in a state of uncertainty.</p>	<p>++</p> <p>Amending the 2024 Order provides the greatest certainty to the community (including affected landowners) that works on the flood mitigation project can start in summer 2025 and speed up the community’s recovery.</p>
Efficient – the option minimises costs and impacts	<p>0</p> <p>Costs of consenting under pathways other than the 2024 Order will be higher, as they will take longer and be more complex, with the potential for appeals. They could also duplicate work already undertaken to support consenting under the 2024 Order.</p>	<p>+</p> <p>The 2024 Order already provides a streamlined consenting process and utilising this process will avoid unnecessary cost, delays and duplication inherent in seeking approval under another pathway.</p>
Fair – the option is equitable	<p>0</p> <p>If the 2024 Order is not amended, it cannot be used for this project. Impacts will still fall on the same group of people if an alternative consenting pathway is used. Greater consultation and appeal rights under other consenting processes must be balanced against the necessity for timely protection against future floods and faster recovery.</p>	<p>0</p> <p>While the preferred solution has the greatest level of community support and reduces impacts on whenua Māori and homeowners there are trade-offs. The streamlined resource consent process limits opportunities for public input and appeal. However, the urgency of providing timely protection against future floods outweighs the benefits of a full consenting</p>

		process. Judicial review will still be available as a safeguard.
Te Tiriti considerations	<p>0</p> <p>Other consenting pathways may enable more participation from Māori. However, a streamlined process offers Māori the benefit of flood protection sooner. Unless the 2024 Order is amended, these benefits are not available for the Regional Council’s preferred solution, which is intended to minimise impacts on Māori.</p>	<p>0</p> <p>The rationale for amending the 2024 Order is because the preferred option has the least impact on whenua Māori and the greatest community support. The 2024 Order includes a process for consulting Māori and makes no changes to the Te Ture Whenua Māori Act 1993 or Public Works Act 1981 (so any land use arrangements under these Acts will continue to apply).</p>
Overall assessment	<p>0</p> <p>Overall, the status quo poses a real and tangible risk to the viability of the flood protection works and Wairoa will also not get the benefit of the regulatory relief Cabinet agreed to provide in the 2024 Order.</p>	<p>++</p> <p>Wairoa will get the benefit of the regulatory relief Cabinet agreed to provide in the 2024 Order, resulting in a faster recovery and greater resilience following Cyclone Gabrielle.</p>

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

41. Option Two is likely to best address the problem, meet the policy objectives and deliver the highest net benefits. Amending the 2024 Order reduces uncertainty for the project by ensuring the Regional Council has access to the regulatory relief the Government intended to provide for this project in the 2024 Order.
42. Not amending the 2024 Order prevents the preferred solution from progressing under the streamlined resource consent process. Alternative consenting pathways cannot provide the speed and certainty of consenting compared to the pathway already provided through the 2024 Order. In addition to Table 1 in this paper, Appendix One provides supporting analysis for this assessment.
43. Not amending the 2024 Order could delay the project beyond the 2025 summer construction season or even see the project abandoned. Delaying or abandoning the project would impact significantly on Wairoa’s recovery and future resilience particularly because Wairoa would remain unprotected from a 1-in-100-year flood and there would be a further delay in providing certainty to Category 2C landowners, which would have negative social and economic impacts.

Is the Minister’s preferred option in the Cabinet paper the same as the agency’s preferred option in the RIS?

44. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

45. Table 3 sets out the marginal costs and benefits of the preferred option.

Table 3: Marginal costs and benefits of the preferred option			
Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups			
Newly affected landowners and occupiers	The costs of the preferred option primarily fall on the newly affected landowners and occupiers. The 2024 Order restricts the ability for these people to provide input on or appeal consent decisions, but judicial review remains available.	Medium	High
Additional benefits of the preferred option compared to taking no action			
Regulated groups			
Landowners	Landowners will have increased certainty, and potentially faster flood protection, increasing their confidence in their ability to repair, build, sell, receive rents from and insure properties protected from flooding. We understand some members of the community have become concerned about insurability following Cyclone Gabrielle.	High	High
Regulators			
Councils	The 2024 Order provides an expedited and streamlined consent process, reducing consenting costs and avoiding appeal costs. The Regional Council has already developed and implemented processes under the 2024 Order and has estimated the associated	High (one-off)	High

	<p>projected costs are within budget. The intention is that Regional Council as applicant will lodge the resource consent as soon as the Order comes into effect to avoid any time delays and associated costs.</p> <p>The 2024 Order provides greater cost certainty by avoiding RMA appeals which can be a significant cost for major infrastructure projects.</p>		
Central government	The 2024 Order removes the ability to appeal, removing potential for costs to the Environment Court.	Medium (one-off)	High
Others			
Residents in affected houses	The 2024 Order could enable residents to benefit from the flood works earlier and resolve the disruption they currently face (such as living in temporary accommodation, unable to repair, rebuild or sell). Flood protection will preserve the residential use of 380 Category 2C properties.	High (ongoing)	Medium
Iwi/ hapū/Māori: households	Māori households were disproportionately affected by the flooding. The 2024 Order consent pathway could enable Māori households to move earlier into permanent accommodation.	High (ongoing)	Medium
Workers	Amending the 2024 Order could enable the proposed flood mitigation project to get underway sooner improving certainty for civil infrastructure workers looking at future work in the region.	Medium	Medium
Other residents	The proposed Order would ensure there are no passed-on costs associated with a standard RMA consenting process (through rates).	Low	High

Summary

46. The marginal costs primarily fall on newly affected landowners. The 2024 Order reduces their ability to provide input on or appeal consent decisions, though judicial review remains available.
47. The marginal benefits of the preferred option are significant. The expedited consent pathway could enable residents to benefit from the flood works earlier, resolving current disruptions and preserving the residential use of 380 Category 2C properties. Māori households, disproportionately affected by the flooding, could move into permanent accommodation sooner.

48. The costs of consenting the project are expected to be lower than if alternative consenting pathway were used, as the 2024 Order replaces public notification, submission, and hearing steps with a simplified process. This process avoids costly appeals to the Environment Court. The Regional Council has already invested time and resources in developing processes under the 2024 Order, so continuing to use this process would avoid duplication.
49. The Regional Council's preferred flood protection solution minimises the impact on homes and whenua Māori. This increases community support and the likelihood of delivering flood protection for Wairoa, and of completing the work sooner. Landowners will have increased confidence in their ability to repair, build, sell, rent and insure properties that will be protected from flooding.
50. The evidence supporting the benefits of the 2024 Order consent pathway is of medium certainty, as it is only one part of the overall process. Additionally, quantifying the benefits is challenging as the broader social, economic and cultural impacts are difficult to measure, such as community rebuilding and increased confidence in property use.

Section 3: Delivering an option

How will the proposal be implemented?

51. The amendment Order will be enacted by the Governor-General, upon recommendation by the Minister for the Environment, pursuant to SWERLA.
52. Implementation of the amendment Order will be undertaken by local government through the lodgement of the relevant consents for the Wairoa flood protection works under the consenting pathway in the 2024 Order. The current timeline for the project provides for the works to be consented and constructed prior to the expiry of the 2024 Order on 31 March 2028.
53. To meet the timeframes for this project, the Regional Council must seek permission from landowners for land access. Without permission, the Regional Council would need to pursue access and acquisition through the Public Works Act 1981.⁵

How will the proposal be monitored, evaluated, and reviewed?

ORDER review

54. SWERLA requires Orders to be kept under review by the relevant Minister, until they expire. The 2024 Order will expire on 31 March 2028.
55. The Ministry for the Environment is currently undertaking a review of eight Orders for which the Minister for the Environment is the relevant Minister. The review of the 2024 Order has been deferred until after the proposed enactment of the amendment Order.
56. In carrying out a review of an Order, the relevant Minister must be satisfied that the Order continues to meet the statutory test in section 8(1)(a) of SWERLA:

⁵ The 2024 Order makes no changes to the Te Ture Whenua Māori Act 1993 or Public Works Act 1981 and any land use arrangements under these Acts will continue to apply.

- the Order is necessary or desirable for one or more purposes of SWERLA
- the extent of the Order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the Order
- the Order does not breach section 11 of the SWERLA (section 11 primarily relates to custody and detention)
- the Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

Monitoring and evaluation of flood works

57. Monitoring and evaluation of all flood works projects under the 2024 Order, including Wairoa, is the responsibility of local government. The Regional Council monitors resource consents, checks activities comply with regional plan rules and uses enforcement tools when conditions are breached. The process of compliance monitoring involves carrying out inspections and using compliance approaches to promote behaviour change and incorporate best practice.

Appendix One: Wairoa flood mitigation project – engagement summary

1. The Wairoa Flood Mitigation Project team is a collaborative effort involving several key partners and stakeholders. The primary partners include the Wairoa District Council, Tātau Tātau o Te Wairoa Trust and the Hawke’s Bay Regional Council. Tātau Tātau o Te Wairoa Trust is the Post Settlement Governance Entity (PSGE) for Te Rohe o Te Wairoa.
2. The project team has been working on communication and engagement initiatives to support the project. Earlier in the project, engagement initiatives largely involved the Wairoa Flood Mitigations Scheme Stakeholder Group, mana whenua, river engineers and other technical experts, as the project worked to toward technically viable options to take to the community. More recently, engagement activities have been extended to include potentially impacted whānau, home and landowners, and the broader Wairoa community.
3. Direct one-to-one engagement with home and landowners potentially impacted by the two most technically viable options (1C and 1D) commenced mid-October 2024. In many cases one-to-one engagement has continued at the request of individual owners.
4. The project team is working closely with Te Tumu Paeroa and the Māori Land Court to seek guidance and advice on land access and acquisition. This is part of the effort to minimise the impact on whenua Māori and ensure that the flood protection works are culturally sensitive and acceptable. Te Tumu Paeroa provides trustee services to help manage and protect Māori land.
5. With support of the Māori Land Court, a Judicial Conference was held in late February 2025, with information hui for owners of whenua Māori commencing in late March. Further engagement with owners of whenua Māori is ongoing.
6. In mid-February 2025, Hawke’s Bay Regional Council made the decision to support the progression of Option 1C, as recommended by the Crown Manager and Wairoa District Council. This endorsement was made subject to further refinement of the profile and alignment of the proposed floodway to minimise impacts on owners of whenua Māori. In mid-March 2025, Hawke’s Bay Regional Council confirmed a refined Option 1C+ as the preferred flood mitigation option for North Clyde, as recommended by the Crown Manager and Wairoa District Council.
7. Ongoing conversations with home and landowners regarding their individual circumstances, preferences and aspirations have occurred and, where possible, refinements or adjustments to the preferred flood mitigation solution have been discussed.
8. A dedicated project website (<https://www.wairoafloodproject.co.nz>) has been developed with information, reports and updated news being loaded regularly. This site also has contact details for the project team.

Appendix Two: Analysis of timeframes for alternative consenting pathways

Alternative consenting pathway	Challenges that could affect timeframes for the Wairoa flood protection works
Existing RMA processes (including standard consenting, direct referral to the Environment Court, designations)	<p>Existing RMA consenting processes:</p> <ul style="list-style-type: none"> • have an inherent risk of delay due to public notification requirements and Environment Court appeals • are slower and more complicated processes than the bespoke regulatory pathway provided through the 2024 Order • would disappoint the expectation of the Wairoa community that regulatory relief has already been made available through the 2024 Order.
Fast-track Approvals Act 2024	<p>Fast-track:</p> <ul style="list-style-type: none"> • does not provide a definite timeframe for progressing a project but the timeframe for an Order is well-understood and can likely be completed by the deadline of end August 2025 • would duplicate work as a streamlined consenting process is already in place in the 2024 Order, and the Regional Council has invested funding and resources in developing and implementing processes under the 2024 Order • requires access approvals for Māori land to be resolved before a referral is made (under the 2024 Order pathway, this step can concur concurrently with Order development).



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Severe Weather Recovery (Hawke's Bay Flood Protection Works) Order 2024: Proposed Amendments

Portfolio Environment

On 26 May 2025, Cabinet:

- 1 **noted** that the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA) enables legislation to be amended via Order in Council to speed up recovery from Cyclone Gabrielle;
- 2 **noted** that the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 (the 2024 Order) made a short-term law change to the Resource Management Act 1991 to speed up flood protection works in Hawke's Bay, including in Wairoa;
- 3 **noted** that changes to the map and description of the location for the Wairoa flood protection works within Schedule 1 of the 2024 Order are needed following consultation and refinement of options by the Hawke's Bay Regional Council, but no other changes are proposed;
- 4 **agreed** to amend the map and description of the location for Wairoa flood protection works in Schedule 1 of the 2024 Order;
- 5 **agreed** that the Ministry for the Environment carry out public engagement on the proposed amendment order;
- 6 **noted** that officials will undertake engagement between 27 and 30 May 2025 on the changes in paragraph 4;
- 7 **authorised** the Minister for the Environment to:
 - 7.1 issue drafting instructions to the Parliamentary Council Office for the proposed amendment order to give effect to the decision in paragraph 4;
 - 7.2 make minor and technical changes as required;
- 8 **agreed** that the proposed amendment order would apply from the day after Royal Assent and through to 31 March 2028 when SWERLA expires;

- 9 **invited** the Minister for the Environment to report back to the Cabinet Legislation Committee in August 2025 to seek agreement to submit the amendment order to the Executive Council.

Diana Hawker
for Secretary of the Cabinet

Office of the Minister for the Environment

Chair, Cabinet Legislation Committee

Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025

Proposal

- 1 This paper seeks authorisation to submit the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 (the Amendment Order) to the Executive Council (Appendix 1).

Executive Summary

- 2 On 26 May 2025, Cabinet agreed (CAB-25-MIN-0177 refers) to amend the map and description of the location for the Wairoa flood protection works in the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 (the 2024 Order). The 2024 Order provides a streamlined resource consent process for priority flood protection projects in the Hawke's Bay, including in Wairoa.
- 3 The purpose of the proposed Amendment Order is to ensure that the Hawke's Bay Regional Council (the Regional Council) can utilise the streamlined consenting pathway in the 2024 Order for its preferred flood mitigation solution. This solution is intended to minimise impacts on whenua Māori and has the greatest level of support across the community compared to other solutions.
- 4 The 2024 Order was enacted following preliminary design work on the Wairoa flood mitigation project. After further refinement and engagement on the project, an amendment is needed because part of the preferred solution falls outside the location for flood works described in the 2024 Order. The Regional Council will not be able to use the streamlined consenting process for its preferred solution without this amendment.
- 5 Following Cabinet approval on 26 May 2025, the Ministry for the Environment carried out public consultation on the proposal as required under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERLA). The draft Order was then sent to the Severe Weather Events Recovery Review Panel (the Review Panel) and the Regulations Review Committee (RRC) as required under SWERLA.
- 6 The Review Panel concluded that I may reasonably consider the Amendment Order to be necessary and/or desirable. The RRC reiterated its view that the truncation of appeal rights in the 2024 Order is not authorised by SWERLA and did not have any other comments. The Government's position is that limiting appeal rights is authorised by SWERLA.
- 7 I do not consider changes to the proposal are required other than to include two small additional areas in the Amendment Order as requested by the Regional Council. The first area is a small section of land owned by the Wairoa District Council and the second area comprises three additional properties.
- 8 I am now seeking agreement to submit the attached Amendment Order (Appendix 1) to the Executive Council for enactment. Should Cabinet agree to waive the 28-day rule, the Amendment Order will come into effect on 22 August 2025.

Policy

- 9 SWERLA enables legislation to be temporarily amended through orders for recovery activities in affected locations. The 2024 Order applies to eight flood protection projects in the Hawke's Bay. It provides a streamlined process to reduce uncertainty and risk of delays for obtaining resource consents under the Resource Management Act 1991.
- 10 The 2024 Order was enacted following preliminary design work to identify a range of options for flood protection. The Regional Council has since consulted with landowners and the Wairoa community to identify its preferred solution. This solution:
 - 10.1 has the greatest level of community support (noting no solution has unanimous support)
 - 10.2 reduces impacts on whenua Māori and homeowners
 - 10.3 allows floodwater to follow a direct overland path.
- 11 The preferred solution includes some land that is not described in the 2024 Order. This means the 2024 Order cannot be used to expedite consenting for the Wairoa flood protection works without amendment.
- 12 On 26 May 2025 Cabinet agreed (CAB-25-MIN-0177 refers):
 - 12.1 to amend the map and description of the potential location for the Wairoa flood protection works in the 2024 Order
 - 12.2 for the Ministry for the Environment to carry out public engagement on the proposed amendment to the 2024 Order.

Feedback from consultation and review bodies

- 13 SWERLA requires statutory consultation be undertaken on any proposal as well as consideration of draft orders by the Review Panel and RRC.

Public consultation

- 14 Public consultation took place from 27 to 30 May 2025, including an in-person hui for directly affected landowners, an in-person hui with Tātau Tātau o Te Wairoa Trust (TToTW) and a call for written submissions from the public. TToTW is the Post-Settlement Governance Entity (PSGE) for the iwi and hapū of Te Rohe o Te Wairoa.
- 15 An estimated 46 people attended the hui for directly affected landowners and fourteen written submissions were received. Most submitters supported the Amendment Order due to the urgency and importance of progressing flood protection works. Concerns primarily related to the short time period and limited notice of consultation, rather than the substance of the proposed amendment.
- 16 A particular focus of questions raised during the public hui related to the details and effectiveness of the Council's preferred solution and how iwi and Māori would be involved in the consenting and construction phases of work. Assurance was sought that iwi and Māori would be engaged, providing better recognition of cultural values and inclusion of tangata whenua expertise throughout the process.
- 17 The Amendment Order is narrowly scoped to update the map and coordinates for Wairoa. Safeguards were included in the 2024 Order to ensure relevant Māori entities

IN CONFIDENCE

participate in consenting and construction processes and adverse effects are identified and managed.

- 18 Questions were passed on to the Regional Council which is best placed to address these matters through the pre-application, consenting and construction phases of the works. The Regional Council has indicated it intends to propose consent conditions from Schedule 2 of the Order which cover these matters.¹

Additional consultation

- 19 In June the Regional Council requested the inclusion of three additional properties within the Amendment Order. Through the Wairoa Flood Mitigation Project Team, the Ministry provided landowners who could be contacted or their representatives (one of the properties has a very large number of owners) with an opportunity to comment on the proposed changes between 1 and 4 July 2025. Two submissions were received in support of the proposed amendment.

Feedback from Severe Weather Events Recovery Review Panel

- 20 The Review Panel provided feedback on the draft Amendment Order on 26 June 2025. The Panel determined that I may reasonably consider the Amendment Order to be necessary and/or desirable.

Feedback from Regulations Review Committee

- 21 The RRC provided feedback on the draft Amendment Order on 25 June 2025. When providing feedback on the 2024 Order in 2024, the RRC considered that SWERLA does not authorise the truncation of appeal rights in the RMA. The RRC reiterated this view in its letter of 25 June 2025. No other concerns were raised.
- 22 The Government's position is that limiting appeal rights is within the scope of Section 7 of SWERLA (which enables the making of orders) and is therefore authorised by it. Given the view expressed by the RRC, there is a potential risk that an RRC member could put forward a motion in the House of Representatives to disallow the proposed Amendment Order, which, if passed by the House, would have the effect of revoking the 2024 Order (or part of it). The House can, however, vote not to pass such a motion.

Changes to the Order

- 23 I do not consider any changes to the Amendment Order are required in response to feedback from consultation or comments by the Review Panel or RRC. However, I have approved the addition of two small areas of land at the request of the Regional Council, consistent with the delegations provided to me by Cabinet. These are:
- a small area of land owned by the Wairoa District Council
 - the three properties referred to above.
- 24 Under Section 8(3) of SWERLA I do not consider the process under Section 8(1)(b) to (f) should be repeated for these changes, as the difference between drafts is minor.

¹ Schedule 2 sets out conditions that may be imposed, including engagement and participation conditions, as well as conditions relating to environmental and other impacts.

Timing and 28-day rule

- 25 I propose the 28-day rule be waived, and the Amendment Order have effect until 31 March 2028. I propose that the commencement date of the Amendment Order be 22 August 2025 to enable time for the Amendment Order to be notified in the *Gazette*.
- 26 Waiving the 28-day rule supports expediting the construction of flood works by making the consent process available a month earlier.

Compliance

- 27 The Amendment Order complies with each of the following:
- 27.1 the principles of the Treaty of Waitangi
 - 27.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - 27.3 the principles and guidelines set out in the Privacy Act 2020
 - 27.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Compliance with SWERLA

- 28 I must be satisfied the following requirements of Section 8(1) of SWERLA are met before recommending the making of an order. I am satisfied that:
- 28.1 this Amendment Order is necessary and desirable for one or more purposes of SWERLA
 - 28.2 the extent of the Amendment Order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the Order
 - 28.3 the Amendment Order does not breach section 11 of SWERLA
 - 28.4 the Amendment Order is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990
 - 28.5 the draft Amendment Order was provided to the Review Panel and RRC and I had regard to the Panel's and RRC's comments and recommendations
 - 28.6 I have considered the effects on the environment that could occur as a result of the Amendment Order and whether any adverse effects can be avoided, remedied or mitigated
 - 28.7 the engagement process under section 9 of SWERLA has been complied with.

Review of this Order

- 29 Under section 12 of SWERLA there is a requirement for the relevant Minister to keep all orders they are responsible for under review. I intend to undertake a review of the 2024 Order (which will incorporate the amendments in this Amendment Order) in 2026.

IN CONFIDENCE

This timing will allow for consenting processes under the 2024 Order to be undertaken before the review commences.

Certification by Parliamentary Counsel

- 30 The order has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet, subject to a waiver of the 28-day rule.

Impact analysis

- 31 A Regulatory Impact Assessment was prepared and submitted to Cabinet when approval was sought to amend the map and description for Wairoa in the 2024 Order [CAB-25-MIN-0177].

Publicity

- 32 The Ministry will update its website once the Amendment Order is enacted and will email those who submitted on the proposal. The Ministry will also work with the Regional Council to ensure affected property owners are informed about the enactment of the Amendment Order.

Proactive release

- 33 I intend to proactively release this paper once the final Order has been approved by Cabinet and is enacted.

Consultation

- 34 Engagement has been undertaken in accordance with SWERLA.
- 35 Officials from the Ministry for the Environment worked with the Hawke's Bay Recovery Agency, Regional Council and the Cyclone Recovery Unit to develop the proposal in this paper.
- 36 The Ministry for Culture and Heritage; Te Puni Kōkiri; Te Tari Whakatu; the Department of Conservation; Land Information New Zealand; the Ministry of Housing and Urban Development; the Ministry for Primary Industries; and the Department of Internal Affairs were consulted on this Cabinet paper. The Department of Prime Minister and Cabinet was informed of the proposal. No substantive feedback was received.

Recommendations

The Minister for the Environment recommends that Cabinet Legislation Committee:

- 1 **note** that on 26 May 2025 Cabinet agreed to amend the map and description of the location for Wairoa flood protection works in Schedule 1 of the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 [CAB-25-MIN-0177]
- 2 **note** that minor additional amendments were made following Cabinet decisions to the map and coordinates at the request of the Hawke's Bay Regional Council, as these changes fell within the Minister for the Environment's delegated authority
- 3 **note** that the relevant minister (in this case the Minister for the Environment) can only recommend an order be made if the statutory prerequisites in Section 8(1) of the Severe Weather Emergency Recovery Legislation Act 2023 are met
- 4 **note** that the Minister for the Environment considers these pre-requisites have been met
- 5 **note** that the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 will give effect to the decision referred to in recommendation 1 above
- 6 **authorise** the submission to the Executive Council of the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025
- 7 **agree** to waive the 28-day rule so that the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 comes into force on 22 August 2025, enabling the consenting process to begin as soon as possible.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

Appendix 1: Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025

Attached separately.

Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025

Order in Council

At Wellington this day of 2025

Present:
in Council

This order is made under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 8(1) and (2) of that Act.

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Order

1 Title

This order is the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025.

2 Commencement

This order comes into force on 22 August 2025.

3 Principal order

This order amends the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024.

4 Schedule 1 amended

- (1) In Schedule 1, replace the item relating to the Description of Wairoa—Area B location with the item set out in Part 1 of the Schedule of this order.
- (2) In Schedule 1, replace the item relating to the Map of Wairoa—Areas A and B locations with the item set out in Part 2 of the Schedule of this order.

Schedule
Items in Schedule 1 replaced

cl 4

Part 1
Description of Wairoa—Area B location replaced

Description of Wairoa—Area B location

The Wairoa—Area B location is the area enclosed by a line that—

- (1) commences in the Road Reserve of Railway Road (at 39°1.335'S, 177°24.341'E) opposite Part Lot 1 DP 8639; then
- (2) proceeds in a south-easterly direction to 13 Railway Road (Paeroa 1E13A Block) (at 39°1.401'S, 177°24.394'E); then
- (3) proceeds in a south-easterly direction to 45 Ormond Road (Lot 5 DP 22517) (at 39°1.460'S, 177°24.520'E); then
- (4) proceeds in an easterly direction to Part Taumataoteo 30A Block (at 39°1.470'S, 177°24.676'E); then
- (5) proceeds in an easterly direction to the northern boundary of Lot 2 DP 23601 (at 39°1.468'S, 177°24.711'E); then
- (6) proceeds in an easterly direction within Lot 2 DP 23601 (at 39°1.471'S, 177°24.744'E); then
- (7) proceeds in a southerly direction to Taumataoteo 28C1C Block (at 39°1.531'S, 177°24.746'E); then
- (8) proceeds in a southerly direction to Taumataoteo 28G Block (at 39°1.556'S, 177°24.757'E); then
- (9) proceeds in a south-easterly direction to 2 Crarer Street (Section 1 SO 10205) (at 39°1.648'S, 177°24.853'E); then
- (10) proceeds in a south-easterly direction to 3 Carroll Street (Lot 1 DP 10889) (at 39°1.751'S, 177°24.999'E); then
- (11) proceeds in a southerly direction within 3 Carroll Street (Lot 1 DP 10889) (at 39°1.827'S, 177°24.997'E); then
- (12) proceeds in a south-easterly direction to the northern boundary of Section 21 Block II Clyde SD (at 39°1.830'S, 177°25.0'E); then
- (13) proceeds in an easterly direction along the northern boundary of Section 21 Block II Clyde SD to the north-eastern corner of Section 21 Block II Clyde SD (at 39°1.832'S, 177°25.026'E); then
- (14) proceeds in an easterly direction across Carroll Street to the south-western corner of Lot 4 DP 7656 (at 39°1.835'S, 177°25.040'E); then

- (15) proceeds in an easterly direction along the northern road boundary of River Parade across to the eastern side of the Wairoa State Highway 2 Bridge (at 39°1.842'S, 177°25.143'E); then
- (16) proceeds in a southerly direction along the eastern extent of the Wairoa State Highway 2 Bridge to the true right bank of the Wairoa River (at 39°1.938'S, 177°25.119'E); then
- (17) proceeds in an easterly direction along the true right bank of the Wairoa River (at 39°1.991'S, 177°25.329'E); then
- (18) proceeds in an easterly direction along the true right bank of the Wairoa River (at 39°2.009'S, 177°25.551'E); then
- (19) proceeds in a southerly direction across Marine Parade to the north-western corner of 1 Delhi Street (Section 434 SO 9421) (at 39°2.034'S, 177°25.548'E); then
- (20) proceeds in a westerly direction to the north-eastern corner of Lot 2 DP 575683 (at 39°2.011'S, 177°25.326'E); then
- (21) proceeds in a westerly direction along the southern road boundary of Marine Parade to the north-western corner of 86 Marine Parade (Lot 1 DP 9612) (at 39°1.990'S, 177°25.117'E); then
- (22) proceeds in a westerly direction to the Road Reserve of Paul Street (at 39°1.989'S, 177°25.103'E); then
- (23) proceeds in a westerly direction along the southern road boundary of Marine Parade to the north-eastern boundary point of 18 Marine Parade (Lot 1 DP 12196) (at 39°1.967'S, 177°24.896'E); then
- (24) proceeds in a north-westerly direction along the southern road boundary of Marine Parade to the north-western boundary point of 2 Marine Parade (Part Section 382 SO 9438) (at 39°1.910'S, 177°24.779'E); then
- (25) proceeds in a westerly direction to the north-eastern corner of 15 Lockwood Point (Lot 2 DP 19636) (at 39°1.909'S, 177°24.765'E); then
- (26) proceeds in a south-westerly direction to the north-western corner of 15 Lockwood Point (Lot 2 DP 19636) (at 39°1.922'S, 177°24.737'E); then
- (27) proceeds in a south-westerly direction along the southern road boundary of Marine Parade to the north-western corner of 32 Churchill Avenue (Lot 30 DP 10974) (at 39°1.946'S, 177°24.700'E); then
- (28) proceeds in a south-westerly direction to the north-westernmost boundary point of 25 Churchill Avenue (Lot 1 DP 10974) (at 39°1.973'S, 177°24.652'E); then
- (29) proceeds in a southerly direction to the south-eastern corner of 27 Churchill Avenue (Poutaka 4A Block) (at 39°2.017'S, 177°24.663'E); then

- (30) proceeds in a westerly direction to the south-western corner of 27 Churchill Avenue (Poutaka 4A Block) (at 39°2.019'S, 177°24.646'E); then
- (31) proceeds in a southerly direction to the south-eastern corner of 14 Mitchell Road (Lot 3 DP 9927) (at 39°2.110'S, 177°24.668'E); then
- (32) proceeds in a south-westerly direction to the south-eastern corner of 16 Mitchell Road (Lot 2 DP 9927) (at 39°2.114'S, 177°24.657'E); then
- (33) proceeds in a northern direction to the north-eastern corner of 16 Mitchell Road (Lot 2 DP 9927) (at 39°2.087'S, 177°24.651'E); then
- (34) proceeds in a westerly direction to the north-western corner of 18 Mitchell Road (Lot 1 DP 9927) (at 39°2.095'S, 177°24.630'E); then
- (35) proceeds in a northern direction to the north-eastern corner of 20B Mitchell Road (Lot 3 DP 17179) (at 39°2.086'S, 177°24.627'E); then
- (36) proceeds in a westerly direction to the north-western corner of 20C Mitchell Road (Lot 2 DP 17179) (at 39°2.091'S, 177°24.590'E); then
- (37) proceeds in a westerly direction to the eastern boundary of 46 Mitchell Road (Poutaka 12B Block) (at 39°2.120'S, 177°24.496'E); then
- (38) proceeds in a southerly direction to the south-eastern corner at 46 Mitchell Road (Poutaka 12B Block) (at 39°2.166'S, 177°24.517'E); then
- (39) proceeds in a south-westerly direction to the south-eastern corner of 48 Mitchell Road (Poutaka 12A Block) (at 39°2.176'S, 177°24.490'E); then
- (40) proceeds in a northern direction to the north-eastern corner of 48 Mitchell Road (Poutaka 12A Block) (at 39°2.123'S, 177°24.466'E); then
- (41) proceeds in a westerly direction to the eastern boundary of 56 Mitchell Road (Poutaka 13A1 Block) (at 39°2.136'S, 177°24.412'E); then
- (42) proceeds in a southerly direction to the south-eastern corner of 56 Mitchell Road (Poutaka 13A1 Block) (at 39°2.195'S, 177°24.438'E); then
- (43) proceeds in a south-westerly direction to the south-western corner of 56 Mitchell Road (Poutaka 13A1 Block) (at 39°2.200'S, 177°24.425'E); then
- (44) proceeds in a northern direction to the north-eastern corner of 14 Rimu Drive (Lot 4 DP 16621) (at 39°2.123'S, 177°24.391'E); then
- (45) proceeds in a south-westerly direction to the north-western corner of 14 Rimu Drive (Lot 4 DP 16621) (at 39°2.133'S, 177°24.376'E); then
- (46) proceeds in a south-westerly direction to the north-western corner of 8 Rimu Drive (Lot 5 DP 16621) (at 39°2.140'S, 177°24.362'E); then
- (47) proceeds in a south-westerly direction to the north-western corner of 6 Rimu Drive (Lot 7 DP 16621) (at 39°2.149'S, 177°24.347'E); then

- (48) proceeds in a northern direction to the north-western corner of Lot 11 DP 16621 Esplanade Reserve (RES/5955) (at 39°2.138'S, 177°24.342'E); then
- (49) proceeds in a northern direction across the Wairoa River to the south-western corner of 79 Waihirere Road (Taumataoteo 15C3B3 Block) (at 39°2.038'S, 177°24.311'E); then
- (50) proceeds in a north-easterly direction along the true left bank of the Wairoa River to the south-western corner of Taumataoteo Nos. 16 and 17 Road-Line Block (at 39°1.990'S, 177°24.388'E); then
- (51) proceeds in a north-easterly direction to the south-western corner of Taumataoteo 18B Block (at 39°1.984'S, 177°24.396'E); then
- (52) proceeds in a north-westerly direction to the north-western corner of 67 Waihirere Road at Taumataoteo 18A Block (at 39°1.853'S, 177°24.299'E); then
- (53) proceeds in a south-westerly direction along the southern side of the Waihirere Road boundary to the northern boundary of 91 Waihirere Road (Taumataoteo 14 Block) (at 39°1.940'S, 177°24.157'E); then
- (54) proceeds in a north-westerly direction across Waihirere Road to the southern boundary of Taumataoteo 13B Block (at 39°1.931'S, 177°24.150'E); then
- (55) proceeds in a north-easterly direction along the northern side of the Waihirere Road boundary to the south-western corner of 70 Waihirere Road (Part Taumataoteo 20B Block) (at 39°1.851'S, 177°24.280'E); then
- (56) proceeds in a northern direction along the western boundary of 70 Waihirere Road to the north-western corner of 70 Waihirere Road (Part Taumataoteo 20B Block) (at 39°1.738'S, 177°24.213'E); then
- (57) proceeds in a northern direction to the south-western corner of 75 Ruataniwha Road (Lot 2 DP 17914) (at 39°1.726'S, 177°24.210'E); then
- (58) proceeds in a northern direction along the western boundary of 75 Ruataniwha Road to the north-western corner of 75 Ruataniwha Road (Lot 2 DP 17914) (at 39°1.524'S, 177°24.091'E); then
- (59) proceeds in a westerly direction along the southern side of the Ruataniwha Road boundary to the north-western corner of 135 Ruataniwha Road (Te Rato 3D3C2C2A Block) (at 39°1.494'S, 177°23.653'E); then
- (60) proceeds in a northern direction across Ruataniwha Road to the southern boundary of Te Rato 3D3C2C2A Block (at 39°1.483'S, 177°23.651'E); then
- (61) proceeds in an easterly direction along the southern boundary of Te Rato 3D3C2C2A Block (at 39°1.484'S, 177°23.675'E); then

- (62) proceeds in a northern direction to Te Rato 3D3C2C2A Block (at 39°1.378'S, 177°23.632'E); then
- (63) proceeds in a westerly direction to Te Rato 3B3D Block (at 39°1.412'S, 177°23.497'E); then
- (64) proceeds in a westerly direction to Te Rato 3A2D Block (at 39°1.503'S, 177°23.234'E); then
- (65) proceeds in a westerly direction to 232 Ruataniwha Road (Wharepu 1A Block) (at 39°1.564'S, 177°23.067'E); then
- (66) proceeds in a south-westerly direction to Whakapau 5K2A Block (at 39°1.715'S, 177°22.732'E); then
- (67) proceeds in a westerly direction to the true left bank of the Wairoa River (at 39°1.753'S, 177°22.532'E); then
- (68) proceeds in a westerly direction along the true left bank of the Wairoa River (at 39°1.785'S, 177°22.362'E); then
- (69) proceeds in a south-westerly direction along the true left bank of the Wairoa River (at 39°1.911'S, 177°22.241'E); then
- (70) proceeds in a south-easterly direction along the true left bank of the Wairoa River (at 39°2.118'S, 177°22.436'E); then
- (71) proceeds in an easterly direction along the true left bank of the Wairoa River (at 39°2.161'S, 177°22.647'E); then
- (72) proceeds in a south-easterly direction along the true left bank of the Wairoa River (at 39°2.247'S, 177°22.904'E); then
- (73) proceeds in an easterly direction along the true left bank of the Wairoa River (at 39°2.335'S, 177°23.244'E); then
- (74) proceeds in a south-easterly direction across the Wairoa River to the true right bank of the Wairoa River (at 39°2.428'S, 177°23.332'E); then
- (75) proceeds in a southerly direction to State Highway 2 (at 39°2.435'S, 177°23.332'E); then
- (76) proceeds in a westerly direction across State Highway 2 (at 39°2.434'S, 177°23.304'E); then
- (77) proceeds in a northern direction across State Highway 2 (at 39°2.431'S, 177°23.304'E); then
- (78) proceeds in a westerly direction to the southern side of State Highway 2 (at 39°2.441'S, 177°23.189'E); then
- (79) proceeds in a north-westerly direction along the southern side of State Highway 2, intersecting each of the following points: 39°2.420'S, 177°23.125'E; 39°2.411'S, 177°23.096'E; 39°2.401'S, 177°23.064'E; 39°2.377'S, 177°22.996'E; 39°2.350'S, 177°22.915'E; 39°2.336'S, 177°22.874'E; 39°2.323'S, 177°22.833'E; 39°2.254'S, 177°22.603'E; 39°2.231'S, 177°22.535'E; 39°2.212'S, 177°22.466'E; 39°2.195'S,

- 177°22.420'E; 39°2.172'S, 177°22.379'E; 39°2.159'S, 177°22.336'E; 39°2.136'S, 177°22.289'E; 39°2.106'S, 177°22.253'E; 39°2.074'S, 177°22.216'E; 39°2.042'S, 177°22.184'E; 39°2.002'S, 177°22.154'E; 39°1.995'S, 177°22.147'E; 39°1.975'S, 177°22.149'E; 39°1.948'S, 177°22.143'E; 39°1.903'S, 177°22.134'E; 39°1.892'S, 177°22.132'E; then
- (80) proceeds in a northern direction across State Highway 2 (at 39°1.856'S, 177°22.134'E); then
- (81) proceeds in a northern direction across 539 State Highway 2 (Lot 6 DP 315783) (at 39°1.751'S, 177°22.091'E); then
- (82) proceeds in a north-easterly direction across 539 State Highway 2 (Lot 6 DP 315783) (at 39°1.673'S, 177°22.174'E); then
- (83) proceeds in a north-easterly direction across 539 State Highway 2 (Lot 6 DP 315783) (at 39°1.644'S, 177°22.241'E); then
- (84) proceeds in a northern direction to 591 State Highway 2 (Lot 3 DP 315783) (at 39°1.509'S, 177°22.228'E); then
- (85) proceeds in a northern direction across 591 State Highway 2 (Lot 3 DP 315783) (at 39°1.366'S, 177°22.247'E); then
- (86) proceeds in a north-westerly direction across 591 State Highway 2 to the point near the northern boundary (Lot 3 DP 315783) (at 39°1.030'S, 177°21.895'E); then
- (87) proceeds in a northern direction across State Highway 2 and the Palmerston North–Gisborne Railway Line to a point near the south-western boundary of 103 Huramua Road West (at 39°0.730'S, 177°21.923'E); then
- (88) proceeds in an easterly direction across 103 Huramua Road West (Lot 12 DP 8981) (at 39°0.812'S, 177°22.264'E); then
- (89) proceeds in a north-easterly direction across 103 Huramua Road West to the point on the northern side of the Palmerston North–Gisborne Railway Line (at 39°0.745'S, 177°22.415'E); then
- (90) proceeds in a north-easterly direction to Lot 6 DP 8981 (at 39°0.655'S, 177°22.596'E); then
- (91) proceeds in a north-easterly direction along the south-eastern boundary of 44 Huramua Road West (Section 30 Block I Clyde SD) (at 39°0.574'S, 177°22.756'E); then
- (92) proceeds in a north-easterly direction to a point near the east of the boundary of 44 Huramua Road West (at 39°0.462'S, 177°22.969'E); then
- (93) proceeds in an easterly direction across the Palmerston North–Gisborne Railway Line and Awamate Road to the western boundary of 194 Awamate Road (at 39°0.411'S, 177°23.164'E); then

- (94) proceeds in a north-easterly direction to a point near the northern boundary of 198 Awamate Road (Lot 9 DP 8981) (at 39°0.265'S, 177°23.360'E); then
- (95) proceeds in an easterly direction across 198 Awamate Road to a point near the north-eastern boundary (Lot 9 DP 8981) (at 39°0.255'S, 177°23.499'E); then
- (96) proceeds in a south-easterly direction across the Wairoa River to 177 Railway Road (Lot 1 DP 4680) (at 39°0.318'S, 177°23.684'E); then
- (97) proceeds in a south-easterly direction to the north-western boundary of Lot 3 DP 16115 (at 39°0.538'S, 177°23.905'E); then
- (98) proceeds in a south-easterly direction along the western boundary of Lot 3 DP 16115 (at 39°0.607'S, 177°23.948'E); then
- (99) proceeds in a south-westerly direction to 210 Railway Road between the Wairoa Aerodrome and the Palmerston North–Gisborne Railway Line (at 39°0.613'S, 177°23.935'E); then
- (100) proceeds in a southerly direction to the eastern side of 78 Airport Road (Lot 3 DP 5279) (at 39°1.209'S, 177°24.288'E); then
- (101) proceeds in a southerly direction to the eastern boundary of Railway Road (at 39°1.308'S, 177°24.327'E); then
- (102) proceeds in a southerly direction along the eastern boundary of Railway Road (at 39°1.334'S, 177°24.342'E); then
- (103) proceeds in a south-westerly direction to the point described in paragraph (1).

However, the Wairoa—Area B location does not include the area enclosed by a line that—

- (1) commences at the north-eastern corner of 35 Waihirere Road (Taumataoteo 24C1 Block) (at 39°1.729'S, 177°24.501'E); then
- (2) proceeds in a southerly direction to the south-eastern corner of 35 Waihirere Road (Taumataoteo 24C1 Block) (at 39°1.774'S, 177°24.527'E); then
- (3) proceeds in an easterly direction to the north-eastern corner of Taumataoteo 24C5 Block (at 39°1.760'S, 177°24.565'E); then
- (4) proceeds in a southerly direction to the south-eastern corner of Taumataoteo 24C5 Block (at 39°1.807'S, 177°24.593'E); then
- (5) proceeds in an easterly direction to the north-eastern corner of Taumataoteo 35 Block (at 39°1.802'S, 177°24.609'E); then
- (6) proceeds in a southerly direction to the south-eastern corner of Taumataoteo 35 Block (at 39°1.820'S, 177°24.620'E); then
- (7) proceeds in a westerly direction to the north-eastern corner of Taumataoteo 22E Block (at 39°1.825'S, 177°24.606'E); then

- (8) proceeds in a southerly direction to the south-eastern corner of Taumataoteo 22E Block (at 39°1.840'S, 177°24.615'E); then
- (9) proceeds in a north-easterly direction along the true left bank of the Wairoa River to 19 Waihirere Road at the southernmost boundary point of Taumataoteo 25B Block (at 39°1.827'S, 177°24.639'E); then
- (10) proceeds in a north-easterly direction along the boundary of 19 Waihirere Road to the easternmost boundary point of Taumataoteo 25B Block (at 39°1.810'S, 177°24.667'E); then
- (11) proceeds in an easterly direction along the southern boundary of 13 Waihirere Road at Taumataoteo 26A Block (at 39°1.810'S, 177°24.669'E); then
- (12) proceeds in a northern direction across 13 Waihirere Road (Taumataoteo 26A Block) (at 39°1.803'S, 177°24.670'E); then
- (13) proceeds in a north-westerly direction across 13 Waihirere Road (Taumataoteo 26A Block) (at 39°1.748'S, 177°24.636'E); then
- (14) proceeds in north-westerly direction to the northern boundary of Part Taumataoteo 25 Block (at 39°1.683'S, 177°24.576'E); then
- (15) proceeds in a south-westerly direction along the southern boundary of Waihirere Road to the point described in paragraph (1).

The Wairoa—Area B location also does not include the area enclosed by a line that—

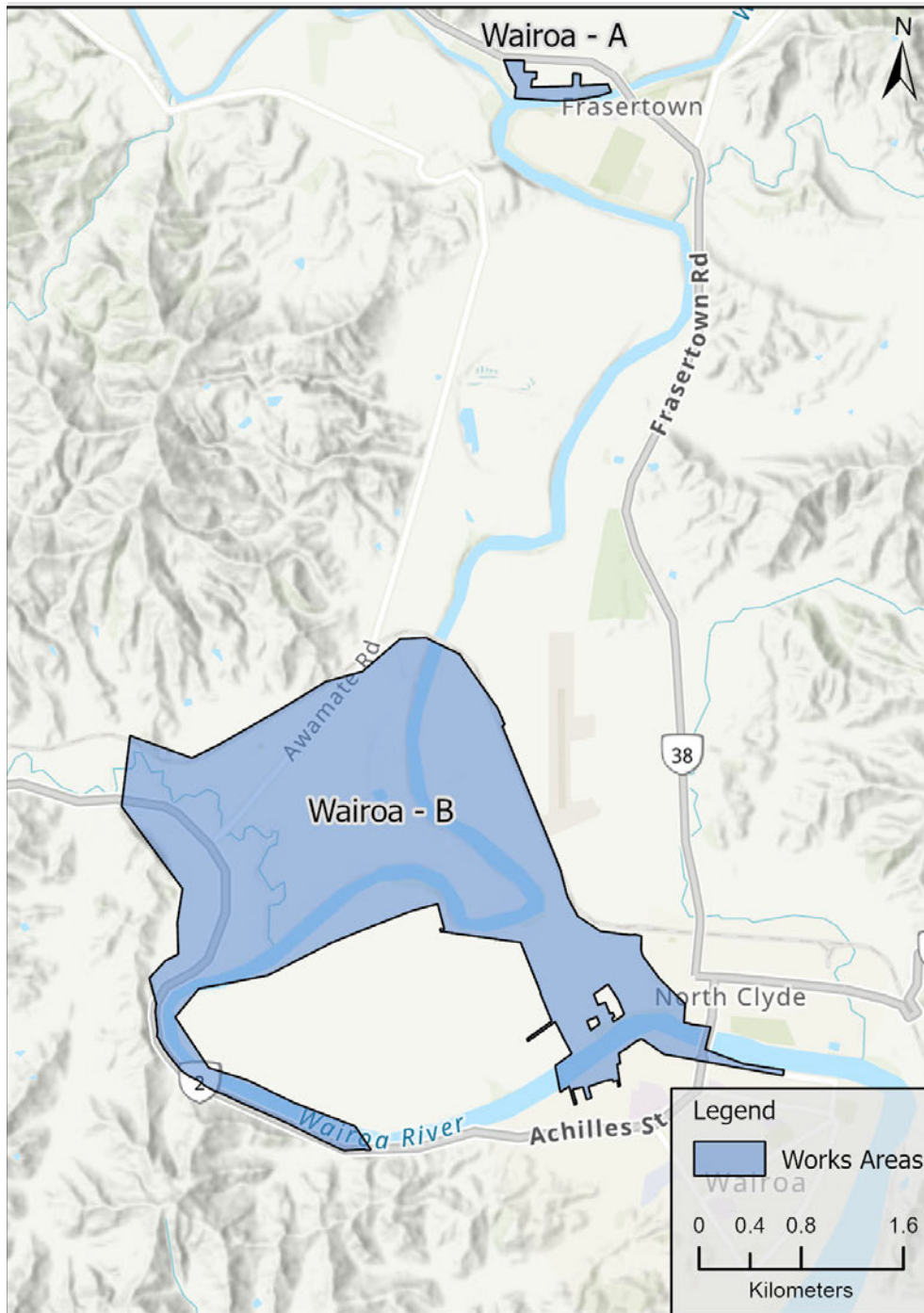
- (1) commences at the north-eastern corner of Taumataoteo 34 Block (at 39°1.823'S, 177°24.524'E); then
- (2) proceeds in a westerly direction along the northern boundary of Taumataoteo 34 Block (at 39°1.842'S, 177°24.471'E); then
- (3) proceeds in a southerly direction across Taumataoteo 34 Block to the western boundary of Taumataoteo 22E Block (at 39°1.881'S, 177°24.494'E); then
- (4) proceeds in a north-easterly direction across Taumataoteo 22E Block (at 39°1.852'S, 177°24.540'E); then
- (5) proceeds in a northern direction along the eastern boundary of Taumataoteo 34 Block to the point described in paragraph (1).

Part 2

Map of Wairoa—Areas A and B locations replaced

Map of Wairoa—Areas A and B locations

The following map is indicative only and, if there is any inconsistency between the map and any of the above descriptions, the above descriptions prevail.



Clerk of the Executive Council.

Explanatory note

This note is not part of the order but is intended to indicate its general effect.

This order, which comes into force on 22 August 2025, amends Schedule 1 of the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 (the **principal order**).

The principal order modifies the Resource Management Act 1991 (the **RMA**), for the purposes of the Severe Weather Emergency Recovery Legislation Act 2023 (the **SWERLA**), to facilitate the carrying out of flood protection works at specified locations in the Hawke's Bay region.

The amendments increase the area subject to the principal order by inserting replacements for the—

- description of the Wairoa—Area B location; and
- map of the Wairoa—Areas A and B locations.

Statement of reasons

This statement of the Minister's reasons for recommending the making of this order is published in accordance with section 10 of the SWERLA.

The Minister for the Environment is the Minister responsible for the administration of this order and is also the Minister responsible for the RMA. The Minister is satisfied that the order—

- is necessary or desirable for 1 or more purposes of the SWERLA:
- is not broader than is reasonably necessary to address the matters that gave rise to the order:
- does not breach section 11 of the SWERLA:
- does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.

The Minister is satisfied the consultation process described in section 9 of the SWERLA has been complied with. Regarding the elements of this order that relate to the RMA, the relevant Minister considered the effects on the environment that could occur because of the order, and whether any adverse effects can be avoided, remedied, or mitigated.

The draft order was reviewed by the Severe Weather Events Recovery Review Panel, a copy was provided to the Regulations Review Committee, and the relevant Minister had regard to the recommendations and comments provided by these bodies. No changes were made in response to comments by these bodies.

Order is necessary or desirable for 1 or more purposes of SWERLA and is appropriate

The Minister is satisfied, for the following reasons, that the order is—

- necessary or desirable for 1 or more purposes of the SWERLA; and
- appropriate.

In relation to section 8(1)(a)(i) of the SWERLA, the order provides for the planning, rebuilding, and recovery of affected communities and persons (section 3(1)(a) of the SWERLA), in particular—

- the rebuilding of land, infrastructure, and other property of affected communities or of any affected persons (section 3(1)(a)(i)); and
- safety enhancements to, and improvements to the resilience of, that land, infrastructure, or other property (section 3(1)(a)(iii)); and
- facilitating co-ordinated efforts and processes for short-term, medium-term, and long-term recovery (section 3(1)(a)(iv)); and
- facilitating the restoration and improvement of the economic, social, and cultural well-being, and enhancing the resilience, of affected communities or of any affected persons (section 3(1)(a)(v)).

In relation to section 8(1)(a)(i) of the SWERLA, the order also provides for economic recovery (section 3(1)(b) of the SWERLA).

This order amends the principal order by expanding the area eligible for the streamlined resource consent process, enabling the Hawke's Bay Regional Council to pursue its preferred flood protection solution. The order seeks to provide access to a streamlined resource consent process for flood protection works in Wairoa. Flood protection will ensure that people and communities in Wairoa can recover from the effects of Cyclone Gabrielle and are protected against future events.

The streamlined consent process in the principal order makes it possible to complete flood protection works in an expedient way. The flood protection works are necessary safety enhancements to address dangers posed by flooding in future severe weather events.

The amendments will therefore also facilitate the restoration and improvement of the economic, social, and cultural well-being, and enhance the resilience, of affected communities and affected persons. The order will support the implementation of the Hawke's Bay Regional Recovery Plan by enabling Category 2A or 2C residential land to be reclassified to Category 1 sooner than under standard processes.

Residents and businesses have experienced significant losses and are experiencing stress while waiting for flood protection works. Reclassifying 2A or 2C residential land to Category 1 will mean property owners and businesses can rebuild and obtain insurance. Businesses at risk of flooding may be unable to secure insurance without flood protection, putting their future viability and hundreds of jobs in jeopardy.

Using standard processes would delay the flood protection works, which could threaten their viability by generating significant uncertainty and construction cost increases.

Amendments to principal order

Clause 4 amends Schedule 1—Locations of flood protection works to replace the map of Wairoa—Areas A and B locations and description of Wairoa—Area B location with a new map and description to include the additional area for the preferred flood works option. No changes are made to the Wairoa—Area A location.

Regulatory impact statement

The Ministry for the Environment produced a regulatory impact statement on 21 May 2025 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/>
- <https://www.regulation.govt.nz/our-work/regulatory-impact-statements/>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry for the Environment.



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025

Portfolio Environment

On 14 August 2025, the Cabinet Legislation Committee:

- 1 **noted** that in May 2025, Cabinet agreed to amend the map and description of the location for Wairoa flood protection works in Schedule 1 of the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Order 2024 [CAB-25-MIN-0177];
- 2 **noted** that minor additional amendments were made following Cabinet decisions to the map and coordinates at the request of the Hawke's Bay Regional Council, as these changes fell within the Minister for the Environment's delegated authority;
- 3 **noted** that the relevant minister (in this case the Minister for the Environment) can only recommend an order be made if the statutory prerequisites in section 8 of the Severe Weather Emergency Recovery Legislation Act 2023 are met;
- 4 **noted** that the Minister for the Environment considers that the pre-requisites in paragraph 3 above have been met;
- 5 **noted** that the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 will give effect to the decision referred to in paragraph 1 above;
- 6 **authorised** the submission to the Executive Council of the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 [PCO 28097/12.0];
- 7 **agreed** to waive the 28-day rule so that the Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 comes into force on 22 August 2025, enabling the consenting process to begin as soon as possible.

Tom Kelly
Committee Secretary

Attendance: (See over)

Present:

Hon David Seymour (Chair)
Hon Paul Goldsmith
Hon Brooke van Velden
Hon Shane Jones
Hon Nicole McKee
Hon Casey Costello
Hon Penny Simmonds
Stuart Smith, MP
Todd Stephenson, MP
Jamie Arbuckle, MP

Officials present from:

Officials Committee for LEG
Office of the Leader of the House



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 15 August 2025

On 18 August 2025, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 15 August 2025:

Out of scope	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
LEG-25-MIN-0160	Severe Weather Emergency Recovery (Hawke's Bay Flood Protection Works) Amendment Order 2025 Portfolio: Environment	CONFIRMED
Out of scope	[Redacted]	[Redacted]

Rachel Hayward
Secretary of the Cabinet